

Subpart 3812—Minerals Under the Mining Laws

§ 3812.1 Minerals subject to location.

Whatever is recognized as a mineral by the standard authorities, whether metallic or other substance, when found in public lands in quantity and quality sufficient to render the lands valuable on account thereof, is treated as coming within the purview of the mining laws. Deposits of oil, gas, coal, potassium, sodium, phosphate, oil shale, native asphalt, solid and semi-solid bitumen, and bituminous rock including oil-impregnated rock or sands from which oil is recoverable only by special treatment after the deposit is mined or quarried, the deposits of sulphur in Louisiana and New Mexico belonging to the United States can be acquired under the mineral leasing laws (see § 3100.0-3(a)(1)), and are not subject to location and purchase under the United States mining laws. The so-called “common variety” mineral materials and petrified wood on the public lands may be acquired under the Materials Act, as amended (see part 3600).

[35 FR 9743, June 13, 1970]

Subpart 3813—Disposal of Reserved Minerals Under the Act of July 17, 1914

SOURCE: 35 FR 9743, June 13, 1970, unless otherwise noted.

§ 3813.0-3 Authority.

The Act of July 20, 1956 (70 Stat. 592), which amended the Act of July 17, 1914 (38 Stat. 509; 30 U.S.C. sec. 122), was enacted to permit the disposal of certain reserved mineral deposits under the mining laws of the United States.

§ 3813.1 Minerals reserved by the Act of July 17, 1914, subject to mineral location, entry and patenting.

The Act of July 17, 1914 (38 Stat. 509; 30 U.S.C. sec. 122), as amended by the act of July 20, 1956 (70 Stat. 592), provides in part as follows:

* * * such deposits to be subject to disposal by the United States only as shall be hereafter expressly directed by law: *Provided, however,* That all mineral deposits heretofore or hereafter reserved to the United States

under this Act which are subject, at the time of application for patent to valid and subsisting rights acquired by discovery and location under the mining laws of the United States made prior to the date of the Mineral Leasing Act of February 25, 1920 (41 Stat. 437), shall hereafter be subject to disposal to the holders of those valid and subsisting rights by patent under the mining laws of the United States in force at the time of such disposal. Any person qualified to acquire the reserved deposits may enter upon said lands with a view of prospecting for the same upon the approval of the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages of the crops and improvements on such lands by reason of such prospecting, the measure of any such damage to be fixed by agreement of parties or by a court of competent jurisdiction. Any person who has acquired from the United States the title to or the right to mine and remove the reserved deposits, should the United States dispose of the mineral deposits in lands, may re-enter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the minerals therefrom; and mine and remove such minerals, upon payment of damages caused thereby to the owner of the land, or upon giving a good and sufficient bond or undertaking therefor in an action instituted in any competent court to ascertain and fix said damages:

§ 3813.2 Minerals subject to disposition.

The Act of July 20, 1956, applies only to any mineral deposit discovered and located under the U.S. mining laws prior to February 25, 1920, and reserved to the United States under the Act of July 17, 1914 (38 Stat. 509; 30 U.S.C. 122), and which, at the time of application for mineral patent, is subject to valid and subsisting rights under the said mining laws. Only that mineral deposit together with the right to use the surface to prospect for, mine, and remove the said deposit shall, on or after July 20, 1956, be subject to disposal to the holders of such valid and subsisting rights by patent under the mining laws in force at the time of such disposal. “Oil” reserved under the Act of 1914 has been held to include oil shale. See 52 L.D. 329.

§ 3813.3 Provisions of the mineral patent.

(a) Each patent issued under the Act of July 20, 1956, shall specifically name

the discovered mineral deposit which had been reserved to the United States under the Act of July 17, 1914, and shall recite that, in accordance with the reservation in the land patent, the mineral patentee and its successors (or his heirs and assigns, if a person) shall have the right to prospect for, mine and remove the mineral deposit for which the patent is issued.

(b) If, when it is determined that mineral deposit is subject to patenting under the mining laws pursuant to the Act of July 20, 1956, there is a subsisting mineral lease or permit covering such deposit, the mineral patent shall be issued subject to the mineral lease or permit for so long as rights under the lease or permit shall exist, the patentee being substituted for the United States as lessor or permittor and the patentee being entitled to all revenues derived subsequent to the issuance of patent from any such lease or permit.

Subpart 3814—Disposal of Reserved Minerals Under the Stockraising Homestead Act

§ 3814.1 Mineral reservation in entry and patent; mining and removal of reserved deposits; bonds.

(a) Section 9 of the Act of December 29, 1916 (39 Stat. 864; 43 U.S.C. 299), provides that all entries made and patents issued under its provisions shall contain a reservation to the United States of all coal and other minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same; also that the coal and other mineral deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal and mineral land laws in force at the time of such disposal.

(b) Said section 9 also provides that any person qualified to locate and enter the coal or other mineral deposits, or having the right to mine and remove the same under the laws of the United States, shall have the right at all times to enter upon the lands entered or patented under the Act, for the purpose of prospecting for the coal or other mineral therein, provided he shall not injure, damage, or destroy

the permanent improvements of the entryman or patentee and shall be liable to and shall compensate the entryman or patentee for all damages to the crops on the land by reason of such prospecting. Under the Act of June 21, 1949 (30 U.S.C. 54), a mineral entryman on a stock raising or other homestead entry or patent is also held liable for any damage that may be caused to the value of the land for grazing by such prospecting for, mining, or removal of minerals except that vested rights existing prior to June 21, 1949, are not impaired.

(c) It is further provided in said section 9 that any person who has acquired from the United States the coal or other mineral deposits in any such land or the right to mine and remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining or removal of the coal, or other minerals, first, upon securing the written consent or waiver of the homestead entryman or patentee; or, second, upon payment of the damages to crops or other tangible improvements to the owner thereof under agreement; or, third, in lieu of either of the foregoing provisions, upon the execution of a good and sufficient bond or undertaking to the United States for the use and benefit of the entryman or owner of the land, to secure payment of such damages to the crops or tangible improvements of the entryman or owner as may be determined and fixed in an action brought upon the bond or undertaking in a court of competent jurisdiction against the principal and sureties thereon. This bond on Form 3814 must be executed by the person who has acquired from the United States the coal or other mineral deposits reserved, as directed in said section 9, as principal, with two competent individual sureties, or a bonding company which has complied with the requirements of the Act of August 13, 1894 (28 Stat. 279; 6 U.S.C. 6-13), as amended by the Act of March 23, 1910 (36 Stat. 241; 6 U.S.C. 8, 9), and must be in the sum of not less than \$1,000. Qualified corporate sureties are preferred and may be accepted as sole surety. Except in the case of a bond given by a qualified corporate surety there